

X:\UNG\5089\Legal\RULE26RESP022008.doc(MES)

UNITED STATES DISTRICT COURT OF THE
STATE OF NEW YORK
SOUTHERN DISTRICT OF NEW YORK
FRED LOCKLARY,

Index No. 08 CIV. 0079

Plaintiff,

**RESPONSE TO RULE 26
DISCOVERY**

-against-

TOWN OF NEW WINDSOR, MICHAEL C.
BIASOTTI, Chief of Police of the Town of New
Windsor Police Department, POLICE OFFICER
STEPHEN L. BEREAN (Shield #132) and POLICE
OFFICER JOHN A. MARTIN (Shield #124),

Defendant.

S I R S:

PLEASE TAKE NOTICE that the Defendant, TOWN OF NEW WINDSOR, MICHAEL C. BIASOTTI, Chief of Police of the Town of New Windsor Police Department, POLICE OFFICER STEPHEN L. BEREAN (Shield #132) and POLICE OFFICER JOHN A. MARTIN (Shield #124), by their attorneys the law firm of Barry, McTiernan & Moore, upon information and belief respond to Rule 26 Discovery as follows:

A. **Names, addresses and telephone numbers of each individual likely to have discoverable information:** The following are individuals likely to have discoverable information and their last known addresses and telephone numbers, where available:

- i) Fred Locklary, 1 Mullins Apartments, Newburgh, New York, 12550, 845-562-1766
- ii) Grace Locklary, 1 Mullins Apartments, Newburgh, New York, 12550, 845-562-1766
- iii) Daksha V. Bapodra, 3046 Route 9W, New Windsor, New York, 12553, 845-562-6373

X:\UNG\5089\Legal\RULE26RESP022008.doc(MES)

- iv) James Ray, 62 Union Avenue, New Windsor, New York, 12550, 845-565-8938
- v) Michael Green, 43 Bridge Street, Newburgh, New York, 12550, 914-561-3113
- vi) Stephn L. Berean, c/o Town of New Windsor Police Department, 555 Union Avenue, New Windsor, New York, 12553
- vii) John A. Martin, c/o Town of New Windsor Police Department, 555 Union Avenue, New Windsor, New York, 12553
- viii) Michael C. Biasotti, c/o Town of New Windsor Police Department, 555 Union Avenue, New Windsor, New York, 12553
- ix) Denise Ray, 62 Union Avenue, New Windsor, New York, 12553

B. **The documents and tangible things including public records which may be used in the defense of this claim are:** Records from the Town of New Windsor Police Department concerning the arrest of Fred Locklary which are annexed hereto. Defendant is currently not in possession of any written statements of the plaintiff. Records from the Town of New Windsor Justice Court.

C. **Medical reports and authorizations:** None.

D. **Experts:** At this time, these defendants have not obtained any expert witnesses.

E. **Computation of Damages:** Not applicable to these defendants.

F. **Insurance Agreement:** The defendant, The Town of New Windsor, is insured by the Diamond State Insurance Company, c/o Network Adjusters, 850 Fulton Street, Framingdale, New York, 11735, policy number LBL0001474, policy limits \$1,000,000.00 per person, \$1,000,000.00 per occurrence, \$1,000,000.00 annual aggregate, subject to \$15,000.00 deductible.

PLEASE TAKE FURTHER NOTICE that the responding defendant reserves the right to

X:\UNG\5089\Legal\RULE26RESP022008.doc(MES)

amend and/or supplement the above responses up to and including the time of trial.

Dated: White Plains, New York
February 25, 2008

Yours, etc.,



Robert C. McMahon (RM1533)
Barry, McTiernan & Moore
Attorneys for Defendants
TOWN OF NEW WINDSOR, MICHAEL C.
BIASOTTI, Chief of Police of the Town of
New Windsor Police Department, POLICE
OFFICER STEPHEN L. BEREAN (Shield
#132) and POLICE OFFICER JOHN A.
MARTIN (Shield #124)
55 Church Street
White Plains, NY 10601
(914) 946-1030

To:

Michael R. Scolnick, P.C.
Attorneys for Plaintiff
FRED LOCKLARY
175 Burrows Lane
Blauvelt, NY 10913
(845) 354-9339

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

LORI JACOBSON, being duly sworn, deposes and says: I am not a party to this action, am over 18 years of age and reside in Yonkers, New York.


That on February 25, 2008, a true copy of the annexed **RESPONSE TO RULE 26 DISCOVERY** was served in the following manner:

By mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

Michael R. Scolnick, P.C.
Attorneys for Plaintiff
FRED LOCKLARY
175 Burrows Lane
Blauvelt, NY 10913
(845) 354-9339


Lori Jacobson

Sworn to before me this
25th day of February, 2008


Mary Ellen Stout
Notary Public, State of New York
No. 4790758
Qualified in Westchester County
Commission Expires January 31, 2010

**NEW WINDSOR POLICE DEPARTMENT
COMPLAINT REPORT**

(Rev 2-89)

Page # 1

Case Type DRIVING W/INTOX		Jurisdiction NEW WINDSOR		Case No. 05-01716		Event No. 05-13446	
Report Time/Date 2256 08/17/2005		Occurred From Time/Date 2256 08/17/2005		Occurred Through Time/Date 2256 08/17/2005		Complaint Received OFFICER	
Offense(s) if Any DWI E-FELONY D.W.I. W/.08 OR + ALCOH AGG. UNLIC. OPER 1ST DEG. PASSED RE							
P.L. Section VTL 1192-3 (E-FEL) VTL 1192-2 VTL 511-3 VTL 1111-D1 VTL 319-1							
P e r s o n	Last Name, First, M.I. RAY, JAMES			Address 62 UNION AVE NEW WINDSOR NY 12550			
	Testimony/Actions Prior to Crime						
	Home Telephone 845 565-8938	Business Telephone	Sex M	Date of Birth 04/11/35	Age 70	Race BLACK	
	Role(s) OWNER						
P e r s o n	Last Name, First, M.I. BAPODRA, DAKSHA V			Address 3046 RT 9W NEW WINDSOR NY 12553			
	Testimony/Actions Prior to Crime						
	Home Telephone 845 562-6373	Business Telephone	Sex F	Date of Birth 12/15/62	Age 42	Race WHITE	
	Role(s) WITNESS						
P e r s o n	Last Name, First, M.I. GREEN, MICHAEL			Address 43 BRIDGE STREET NEWBURGH CITY NY 12550			
	Testimony/Actions Prior to Crime						
	Home Telephone 914 561-3113	Business Telephone 914 561-3113	Sex M	Date of Birth 07/15/57	Age 48	Race BLACK	
	Role(s) PASSENGER						
P e r s o n	Last Name, First, M.I. LOCKLARY, GRACE T			Address 1 MULLINS APTS NEWBURGH TOWN NY 12550			
	Testimony/Actions Prior to Crime						
	Home Telephone 845 562-1766	Business Telephone	Sex F	Date of Birth 03/27/52	Age 53	Race BLACK	
	Role(s) OWNER						
Type of Location (Specific) STREET		Address/Location of Occurrence UNION AVE NEW WINDSOR					Post 2
Case Status CLOSED-ARREST				Unit Referred to RECORDS			
V e h i c l e	License DCR1845		State NY		Vin No. 1G1BU51H7JA117769		
	Year 88	Make CHEVROLET	Model CAPRICE		Style SEDAN	Color GRAY	Value 100.00
	Voucher No.		Vehicle Role IMPOUNDED				

**NEW WINDSOR POLICE DEPARTMENT
COMPLAINT REPORT**

Case No. 05-01716

Page # 2

P r o p e r t y	Quantity	Article, Description, Brand Name, Model, Serial No., Id #	Value	Role

	Item		Value stolen	Value Recovered	Item		Value Stolen	Value Recovered
S u m m a r y	Motor Veh. Stolen-Recv				M.V. Recv'd Other Auth.			
	Currency				Jewelry			
	Furs, Cloth.				Firearms			
	Office Equ.				TV's-Radios Cameras			
	Household				Consumables			
	Misc.							

Total No. of Perpetrators	Wanted	Arrested	Describe Weapon
1		1	

OFFENDER	Wanted/Arrested		Last Name, First, M.I.		Address					
	ARRESTED		LOCKLARY, FRED JR 1 MULLINS APT NEWBURGH CITY NY 12550							
	Sex	Race	Date of Birth	Age	Height	Build	Eye Color	Hair Color	Hair Length	
	M	BLACK	02/21/50	55	509	HEAVY, S	BROWN	GRAY-PAR	SHAVED H	
	Facial Hair		Accent		Eyeglasses		Nickname, First Name, Alias		Wanted Person Alarm	
	MOUSTACHE				WEARS GLASS				01069	

Details

OFFICER'S REPORT:

PO STEPHEN L. BEREAN

08/18/2005

0059 HRS.

WHILE ON PATROL ON RT 9W SOUTH IN THE AREA OF UNION AVENUE THIS OFFICER OBSERVED A GRAY CHEVROLET IMPALA TRAVELLING NORTHBOUND. IT WAS OCCUPIED BY TWO BLACK MALES. THIS OFFICER OBSERVED THIS VEHICLE MAKE A LEFT TURN FROM RT 9W ONTO UNION AVENUE WEST. UPON DOING THIS THE VEHICLE PASSED A RED LIGHT WHICH WAS FACING IN ITS DIRECTION OF TRAVEL. THIS OFFICER TURNED POLICE VEHICLE AROUND ONTO RT 9W NORTH AND ATTEMPTED TO STOP THIS VEHICLE. THIS VEHICLE WAS OBSERVED MAKING A RIGHT TURN INTO A DRIVEWAY OFF UNION AVENUE. THIS OFFICER PROCEEDED WEST ON UNION AVENUE AND LOCATED THE VEHICLE IN THE DRIVEWAY AT 62 UNION AVENUE. THE TWO OCCUPANTS HAD GOTTEN OUT AND WERE STANDING AT THE FRONT DOOR OF THE RESIDENCE. THIS OFFICER STOPPED POLICE VEHICLE AND SPOKE WITH BOTH PARTIES. UPON SPEAKING WITH THE FIRST SUBJECT, MR. FRED LOCKLARY, HE ADVISED THAT THE VEHICLE IN THE

NEW WINDSOR POLICE DEPARTMENT
COMPLAINT REPORT

Case No. 05-01716

Page # 3

Details

DRIVEWAY WAS HIS WIFE'S CAR. THIS OFFICER DETECTED A STRONG ODOR OF AN ALCOHOLIC BEVERAGE COMING FROM HIS MOUTH ARE. HE ALSO HAD RED WATERED EYES AND WAS NOT SPEAKING CLEARLY. WHEN ASKED IF HE WAS DRIVING THE VEHICLE HE DENIED OPERATION. THIS OFFICER CALLED OFFICER MARTIN TO RESPOND FOR BACK UP. UPON HIS ARRIVAL THE SECOND SUBJECT WAS INTERVIEWED AT THE SCENE. MR. MICHAEL GREEN TOLD BOTH OFFICERS THAT MR. LOCKLARY WAS DRIVING AND THAT THEY WERE COMING FROM THE MOTEL (TRAVEL INN) ON RT 9W WHICH IS WHERE THIS OFFICER OBSERVED THEM LEAVING FROM INITIALLY. MR. LOCKLARY WAS INTERVIEWED AGAIN AND DENIED OPERATING THE VEHICLE. MR. GREEN WAS ADAMANT THAT MR. LOCKLARY WAS DRIVING THE VEHICLE AND AGREED TO GIVE A SWORN STATEMENT AS TO WHAT HAPPENED. MR. GREEN APPEARED TO BE SOBER AT THE TIME. OFFICER MARTIN WAS ABLE TO OBTAIN A WRITTEN STATEMENT FROM MICHAEL GREEN AT THE SCENE IMPLICATING MR. LOCKLARY AS THE DRIVER. MR. GREEN CAN ONLY READ AND WRITE THE ENGLISH LANGUAGE PARTIALLY. OFFICER MARTIN PREPARED THE STATEMENT BASED ON ORAL STATEMENT. MR. GREEN WAS READ BACK THE STATEMENT BY OFFICER MARTIN. MR. GREEN AGREED TO ITS CONTENTS AND WAS ABLE TO SIGN HIS NAME ON THE STATEMENT AS WITNESSED BY THIS OFFICER AND OFFICER MARTIN.

MR. JAMES RAY, THE OWNER OF 62 UNION AVENUE WAS INTERVIEWED. HE ASKED THIS OFFICER WHY THE DRIVER AND PASSENGER WERE AT HIS RESIDENCE KNOCKING ON HIS DOOR. BASED ON WRITTEN STATEMENT FROM MR. GREEN THIS OFFICER PLACED MR. LOCKLARY UNDER ARREST FOR DRIVING WHILE INTOXICATED AND HAVING A REVOKED DRIVER'S LICENSE. HE WAS PLACED INTO POLICE VEHICLE AND TRANSPORTED TO HEADQUARTERS FOR PROCESSING. WHILE DRIVING TO POLICE HEADQUARTERS THIS OFFICER COULD STILL DETECT THE ODOR OF AN ALCOHOLIC BEVERAGE COMING FROM HIS MOUTH AREA. HE WAS STILL SLURRING HIS SPEECH AND HE STATED THAT HE HAD BEEN DRINKING EARLIER AT A FRIEND'S HOUSE. HE STATED HE WAS DRINKING BEER. UPON ARRIVAL AT POLICE HEADQUARTERS MR. LOCKLARY WAS ADAMANT THAT HE WAS NOT DRIVING THE VEHICLE. HE STATED THAT HE WAS LAYING DOWN ON THE BACK SEAT AND THAT A FEMALE NAMED FELICIA STUBBS WAS OPERATING. HE STATED THAT HE SPOKE TO CLERK AT THE TRAVEL INN WHO SAW HIM AS THE PASSENGER. THIS OFFICER SPOKE WITH THE CLERK IDENTIFIED AS DAKSHA BAPODRA. SHE ADVISED THIS OFFICER THAT A MALE PARTY WAS OPERATING THE VEHICLE. SHE DESCRIBED THE MALE PARTY AS BLACK, HAVING A BALD HEAD, HEAVY STOCKY BUILD, AND WAS WEARING A BLACK SHIRT. THIS DESCRIPTION FIT MR. LOCKLARY AND NOT MR. GREEN.

UPON ARRIVAL AT POLICE HEADQUARTERS THIS OFFICER CONDUCTED VARIOUS FIELD SOBRIETY TESTS INCLUDING THE HORIZONTAL GAZE NYSTAGMUS, THE FINGER COUNT,

**NEW WINDSOR POLICE DEPARTMENT
COMPLAINT REPORT**

Case No. 05-01716

Page # 4

Details

THE NUMBER COUNT, AND THE RECITAL OF THE ALPHABET. MR. LOCKLARY FAILED ALL BUT ONE OF THE TESTS. THE ONE PASSED WAS THE FINGER COUNT. BEFORE ASKED TO PERFORM THESE TESTS MR. LOCKLARY ADVISED THAT HE UNDERSTOOD THE DIRECTIONS BEFORE PERFORMING THEM. HE WAS ALSO ASKED IF HE HAD ANY PHYSICAL DISABILITIES HE STATED THAT HE HAD A BAD BACK AND THAT A BULLET WAS LODGED THERE AS HE IS A COMBAT VETERAN FROM VIETNAM. HE WAS NOT ASKED TO PERFORM THE OTHER TWO STANDARD TESTS (WALK AND TURN AND ONE LEG STAND) BECAUSE OF THIS. MR. LOCKLARY WAS GIVEN READ HIS DWI AND MIRANDA WARNINGS AT POLICE HEADQUARTERS BY THIS OFFICER AT 0015 AND 0016 HRS. RESPECTIVELY. HE WAS GIVEN A BREATH TEST VIA THE DATAMASTER ON HIS OWN CONSENT TO DETERMINE THE ALCOHOL CONCENTRATION IN HIS BLOOD. A READING OF .11% WAS OBTAINED. MR. LOCKLARY WAS SUBSEQUENTLY CHARGED AND PROCESSED AT HEADQUARTERS. HE WAS CHARGED WITH DRIVING WHILE INTOXICATED AS A FELONY BASED ON A PRIOR CONVICTION FOR DRIVING WHILE INTOXICATED ON 04/23/2001 OUT OF THE CITY OF NEWBURGH JUSTICE COURT. HE WAS ALSO CHARGED WITH FELONY AGGRAVATED UNLICENSED OPERATION IN THE FIRST DEGREE AS HE IS REVOKED BASED ON SAME CONVICTION. HE WAS ALSO CHARGED WITH PASSING A RED LIGHT AND OPERATING WITHOUT FINANCIAL SECURITY. HE WAS ISSUED TRAFFIC SUMMONSES FOR ALL THESE CHARGES. HE WAS ISSUED AN APPEARANCE TICKET AND WAS RELEASED ROR TO RETURN ON 09/25/2005 IN TOWN COURT THE VEHICLE HE WAS OPERATING WAS IMPOUNDED AT THE SCENE. IT WAS TOWED BY EXPRESS TOWING. NO HOLDS PLACED ON VEHICLE. 221.

Associated Events

05-13446

Latent Fingerprints**Crime Prevention Survey****Reporting/Investigating Officer**

PO STEPHEN L BEREAN

Supervisor Approving

231 SAGER, STEPHEN R JR 08/21/2005 1619

Supervisor 2 Approving

UT-506 (7/83) New York State Department of Motor Vehicles

LV 472827 5 **UNIFORM TRAFFIC TICKET** **NWPD POLICE AGENCY**

Last Name (Offender) Locklory First Name Pied MI

Number and Street 1 Mullins Apt Apt. No.

City Newburgh State NY Zip 12550

Client ID Number 1234567890123456

License NY Exp. Date 5-08 Date of Birth 5-01-60 Sex M Race W

Vehicle DER 7845 Year 78 Make Pontiac Model G Type Van

Arrest Result Yes In connection with your alleged commission of the following offense committed on 8/15/05 at 70 St in Newburgh County NY

Offense Driving with Reckless Endangerment Section 1111 Subsection 1 Vehicle 9W-North Highway 9W

Location of Violation New Windsor Co. Orange Section 5604

In Violation Of NY VET Law NY 1192 3 Other Law

Description of Violation Missed Red Light MPH MPH Zone

Officer's Signature Stephen J. Bera Date 8/17/05

Officer's Last Name Bera Station 4 Substation

YOU ARE HEREBY DIRECTED TO APPEAR IN THE COURT OF New Windsor at 555 Union Ave New Windsor, NY 12553

On 9/15 YEAR 2005

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a mandatory surcharge in the amount prescribed by law. Your failure to comply may result in a warrant for your arrest or suspension of your driver license and other legal judgment against you.

UT-506 (7/83) New York State Department of Motor Vehicles

LV 472828 6 **UNIFORM TRAFFIC TICKET** **NWPD POLICE AGENCY**

Last Name (Offender) Locklory First Name Pied MI

Number and Street 1 Mullins Apt Apt. No.

City Newburgh State NY Zip 12550

Client ID Number 1234567890123456

License NY Exp. Date 5-08 Date of Birth 5-01-60 Sex M Race W

Vehicle DER 7845 Year 78 Make Pontiac Model G Type Van

Arrest Result Yes In connection with your alleged commission of the following offense committed on 8/15/05 at 70 St in Newburgh County NY

Offense Driving with Reckless Endangerment Section 1111 Subsection 1 Vehicle 9W-North Highway 9W

Location of Violation New Windsor Co. Orange Section 5604

In Violation Of NY VET Law NY 1192 3 Other Law

Description of Violation Driving with Reckless Endangerment MPH MPH Zone

Officer's Signature Stephen J. Bera Date 8/17/05

Officer's Last Name Bera Station 4 Substation

YOU ARE HEREBY DIRECTED TO APPEAR IN THE COURT OF New Windsor at 555 Union Ave New Windsor, NY 12553

On 9-15 YEAR 2005

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a mandatory surcharge in the amount prescribed by law. Your failure to comply may result in a warrant for your arrest or suspension of your driver license and other legal judgment against you.

UT-5.6 (7/83) New York State Department of Motor Vehicles

LV 472829 0 **UNIFORM TRAFFIC TICKET**

NYPD POLICE AGENCY

Last Name (Defendant) Lockhart First Name Fred M.I.

Number and Street 11111 Ave A Apt. No.

City Newburgh NY State NY Zip Code 12550

Client ID Number 1234567890123456

License NY Exp. Date 5-08 Sex M Date of Birth 5-17-50 Con. Vch. Bus. M.I.

Vehicle Year/Make 2005 Pontiac Pontiac 64 Vch. Type

Vehicle Year/Make 2005 Pontiac Pontiac 64 Vch. Type

In connection with your alleged commission of the following offense committed on

On 8-17-05 at Route 9W North Loc. Code 3664

NY Violation of NY VTL Law § 1192 Sub 2 Other Law

Description of Violation Driving with BAC of .05% or more MPH MPH Zone

Officer's Signature Stephen S. Bevan 8-17-05

Officer's License 83367 DMV Type 4 Sector/Station

Officer's Last Name Bevan M.I. S Badge Number 1312

YOU ARE HEREBY DIRECTED TO APPEAR IN THE

Court Town of New Windsor

Address 555 Union Avenue

City New Windsor NY State NY Zip Code 12553

On 9-15 YEAR 2005 AT 9:00 AM

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a monetary surcharge in the amount prescribed by law. Your failure to respond may result in a warrant for your arrest or suspension of your driver license and/or a default judgment against you.

UT-5.6 (7/83) New York State Department of Motor Vehicles

LV 472830 1 **UNIFORM TRAFFIC TICKET**

NYPD POLICE AGENCY

Last Name (Defendant) Lockhart First Name Fred M.I.

Number and Street 11111 Ave A Apt. No.

City Newburgh NY State NY Zip Code 12550

Client ID Number 1234567890123456

License NY Exp. Date 5-08 Sex M Date of Birth 5-17-50 Con. Vch. Bus. M.I.

Vehicle Year/Make 2005 Pontiac Pontiac 64 Vch. Type

Vehicle Year/Make 2005 Pontiac Pontiac 64 Vch. Type

In connection with your alleged commission of the following offense committed on

On 8-17-05 at Route 9W North Loc. Code 3664

NY Violation of NY VTL Law § 1192 Sub 3A Other Law

Description of Violation Assault on a Person MPH MPH Zone

Officer's Signature Stephen S. Bevan 8-17-05

Officer's License 83367 DMV Type 4 Sector/Station

Officer's Last Name Bevan M.I. S Badge Number 1312

YOU ARE HEREBY DIRECTED TO APPEAR IN THE

Court Town of New Windsor

Address 555 Union Avenue

City New Windsor NY State NY Zip Code 12553

On 9-15 YEAR 2005 AT 9:00 AM

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a monetary surcharge in the amount prescribed by law. Your failure to respond may result in a warrant for your arrest or suspension of your driver license and/or a default judgment against you.

U.S. DOT#-

State of New York
County of Orange
Town of New Windsor

Date: 8-17-05

Time: 2320 hrs.

Location: 62 Union Avenue
New Windsor, NY
12553

I Michael Green, Being duly sworn deposes and says,
that I am 48 years of age, born on July 15 1957, and reside at
43 Bridge St City of Newburgh, and that I ~~can read~~ and write the
English language. ~~can not read~~

MR. Green I am officer Martin of the Town of New Windsor Police Dept.
I Am investigating a traffic stop officer Berean conducted on Wednesday
August 17, 2005 at 2256 hrs. What if anything can you tell me about the
traffic stop.

A. Me and Fred back here we coming from the hotel when we got stopped.

Q. What hotel are you coming from?

A. That one down the street there. I don't know the name of it.

Q. Would that be the travel Inn?

A. Yeah that's the one.

Q. Where are you going?

A. To my parents house at 62 Union Ave

Q. Who was in the car with you?

A. Just me and Fred.

Q. Who was driving the car?

A. Fred was.

Q. Why did the two of you run from the car and to the front door of the house?

A. Because we came here to visit my parents. But we didn't run.

Michael Green

STATE OF NEW YORK

DATE

COUNTY OF ORANGE

TIME

TOWN OF NEW WINDSOR

LOCATION

Q Is there anything else you wish to tell me about this incident?

A. No that's it. That's it.

Q Is everything you told me the truth and to the best of your knowledge.

A. Yes.

Michael Green

I have ^{been} read this statement ^{by officer Martin} consisting of 3 page(s) and the facts contained herein are true and correct. I have also been told and I understand that making a false written statement is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 17th day of Aug 2005

Subscribed and sworn to before me

Signed: Michael J. Bern

This 17th day of Aug, 20 05

Title: Patrolman

Witness: P.O. Martin

Witness: Stacy S. Bern #132

UNIFORM TRAFFIC TICKET

LV 472827 5

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

UNIFORM TRAFFIC TICKET

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

Officer's Name: LOCKLEY Fred ML

Number and Street: Mullins Apt Apt No.

City: Newburgh NY 12550

Client ID Number: 235452456

License: NY ED 3-08 PL 51 60 Com Var Exp 12/08

DER: 7845 707 785 64 Var Type

Vehicle: 1982 Chevrolet 87 PS 4 W 56 P W 56

Color: Black 9W North 703

Location: New Windsor Co. Orange 3649

In Violation Of: NY VEH Law 111 D-1

Description of Violation: Missed Red Light

Officer's Signature: Stephen J. Beren

U.S. DOT#

03507 DMV/Trap 4 Section/Station

Officer's Last Name: Beren 5 12 132

YOU ARE HEREBY DIRECTED TO APPEAR IN THE

COURT: Town of New Windsor

Address: 555 Union Ave

City: New Windsor NY 12553

ON: 7-15 2008 YEAR

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a monetary surcharge in the amount prescribed by law. Your failure to comply may result in a warrant for your arrest or suspension of your driver license and a criminal judgment against you.

UNIFORM TRAFFIC TICKET

LV 472828 6

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

UNIFORM TRAFFIC TICKET

NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES

Officer's Name: LOCKLEY Fred ML

Number and Street: Mullins Apt Apt No.

City: Newburgh NY 12550

Client ID Number: 235452456

License: NY ED 3-08 PL 51 60 Com Var Exp 12/08

DER: 7845 707 785 64 Var Type

Vehicle: 1982 Chevrolet 87 PS 4 W 56 P W 56

Color: Black 9W North 703

Location: New Windsor Co. Orange 3649

In Violation Of: NY VEH Law 1192 3

Description of Violation: Driving While Intoxicated

Officer's Signature: Stephen J. Beren

U.S. DOT#

03507 DMV/Trap 4 Section/Station

Officer's Last Name: Beren 5 12 132

YOU ARE HEREBY DIRECTED TO APPEAR IN THE

COURT: Town of New Windsor

Address: 555 Union Ave

City: New Windsor NY 12553

ON: 7-15 2008 YEAR

A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motorcycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law.

Upon conviction you may be subject to a monetary surcharge in the amount prescribed by law. Your failure to comply may result in a warrant for your arrest or suspension of your driver license and a criminal judgment against you.

EXH. A